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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of American,

Plaintiff,

vs.

David Allen Harbour,

Defendant.

Case No. 2:19-cr-00898-DLR (DMF)

**RESPONSE TO GOVERNMENT
MOTION TO CONTINUE
EVIDENTIARY HEARING**

Defendant David A. Harbour, by and through undersigned counsel, responds to the government's request to continue the evidentiary hearing.

First, to be sure, we do not oppose counsel's request. Comity amongst professionals opposing each other on behalf of their respective clients remains one of the singularly most appealing aspects of this profession. Trips to anywhere since the advent of our current living circumstances are rare enough and a trip out of the Country is rarer still.

I wanted to explain my own circumstances. The trial I was supposed to start in San Miquel County, New Mexico on April 18th was continued *sua sponte* by the Trial Judge

1 because a Second Degree Murder trial expected to plead out did not and, of course, the
2 criminal trial took precedence. Judge Aragon continued our case until Monday, May 2nd.
3 I am leaving Phoenix for the trial on Friday, April 29th. Meanwhile, since a principal trial
4 witness for both sides cannot attend the trial, given the new trial date, we are deposing
5 him *de bene esse* in Albuquerque on Monday, April 18.

7 This explains our need to get our evidentiary hearing completed on the 26th, 27th,
8 or 28th of April if at all possible. Otherwise, I am not available until the week of May 9th
9 and that assumes the Court would be available that week.

11 Further, given the time constraints explained above and my limited availability to
12 my client to assist him in preparing for the evidentiary hearing, I would add that it would
13 be helpful to both sides were the Court were to provide some advance notice of the
14 subjects on which the Court wants to hear evidence.

16 As an example, the Defense has taken the position that the government does not
17 get any review of the Magistrate Judge's findings re witness tampering. Does the Court
18 want to take evidence on this issue or not? With each side limited to two hours, time-
19 management will be exceptionally important. Perhaps the Court might address this
20 subject with counsel during the April 19, 2022 telephonic status conference (for which
21 the Defendant's appearance was permitted to be waived).

23 RESPECTFULLY SUBMITTED this 14th day of April 2022.

25 CHRISTIAN DICHTER & SLUGA, P.C.

26 By: /s/ Stephen M. Dichter

27 Stephen M. Dichter

28 Jill Ann Herman

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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2022 I electronically transmitted the attached document to the Clerk's Office using the CM/ECF system for filing and for transmittal of Notice of Electronic Filing to the following CM/ECF registrants:

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